

1 SOLOMON E. GRESEN [SBN: 164783]
JOSEPH M LEVY [SBN: 230467]
2 LAW OFFICES OF RHEUBAN & GRESEN
15910 VENTURA BOULEVARD, SUITE 1610
3 ENCINO, CALIFORNIA 91436
TELEPHONE: (818) 815-2727
4 FACSIMILE: (818) 815-2737

5 Attorneys for Plaintiff, Steve Karagiosian

(SPACE BELOW FOR FILING STAMP ONLY)

CITY ATTORNEY

2011 MAY 17 AM 10:41

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF LOS ANGELES

11 OMAR RODRIGUEZ; CINDY GUILLEN-
GOMEZ; STEVE KARAGIOSIAN;
12 ELFEGO RODRIGUEZ; AND JAMAL
CHILDS,

13 Plaintiffs,

14 -vs-

15 BURBANK POLICE DEPARTMENT; CITY
16 OF BURBANK; AND DOES 1 THROUGH
100, INCLUSIVE.

17 Defendants.

19 BURBANK POLICE DEPARTMENT; CITY
20 OF BURBANK,

21 Cross-Complainants,

22 -vs-

23 OMAR RODRIGUEZ, and Individual,

24 Cross- Defendant.

CASE NO.: BC 414 602

PLAINTIFF'S MOTION *IN LIMINE* NO. 2 TO
EXCLUDE DOCUMENTS, TESTIMONY AND
OTHER EVIDENCE REGARDING
LAWSUITS FILED BY CHRISTOPHER
DUNN

[Declaration of Steven M. Cischke re
Compliance with Local Rule 8.92 is filed
concurrently herewith]

Final Status Conference:

DATE: April 4, 2011
TIME: 9:00 a.m.
DEPT: 37

Assigned to: Hon. Joanne B. O'Donnell, Judge
Dept. 37

Complaint Filed: May 28, 2009

Trial Date: April 13, 2011

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that on June 8, 2011, at 9:00 a.m., in Department 37 of the
3 Superior Court of the State of California, for the County of Los Angeles, Central District, located at
4 111 North Hill Street, Los Angeles, California, Plaintiff will move *in limine* for an order preventing
5 Defendant, its counsel, and all witnesses from producing any documents or other demonstrative
6 evidence and from making any statement, reference, innuendo, suggestion or implication regarding
7 the lawsuits against Defendant filed by Christopher Dunn, Los Angeles Superior Court Case Nos.
8 BC418792 and BC417928, other than the mere existence of suits if, and only if, Officer Dunn
9 testifies herein.

10 This motion is brought pursuant to California Evidence Code §§ 350 and 352 on the grounds
11 that such evidence is not relevant to the issues herein, and that any probative value it might have is
12 substantially outweighed by the probability that its admission will necessitate undue consumption of
13 time and/or create substantial danger of undue prejudice, of confusing the issues, or of misleading
14 the jury. This motion will be based on this notice of motion, the Memorandum of Points and
15 Authorities attached hereto, the Declaration of Steven M. Cischke filed herewith, on the records and
16 file herein, and on such evidence as may be presented at the hearing of this motion.

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18 DATED: May 16, 2011

LAW OFFICES OF RHEUBAN & GRESEN

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By: Steven M. Cischke
Steven M. Cischke
Attorneys for Plaintiff, Steve Karagiosian

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTORY STATEMENT**

3 Plaintiff believes that Defendant will seek to introduce evidence regarding the lawsuits filed
4 against Defendant by Christopher Dunn, Los Angeles Superior Court Case Nos. BC418792 and
5 BC417928. Other than the evidence of the mere existence of such suits for impeachment purposes
6 if, and only if, Officer Dunn testifies as a witness, any further evidence regarding the lawsuits,
7 including but not limited to their substance, alleged merits or status, is nor relevant to the issues
8 herein, would necessitate undue consumption of time and create substantial danger of undue
9 prejudice, of confusing the issues, or of misleading the jury.

10
11 **II. A MOTION *IN LIMINE* IS AN APPROPRIATE METHOD**
12 **TO EXCLUDE IRRELEVANT AND UNDULY PREJUDICIAL EVIDENCE**

13 Motions *in limine* are favored because they avoid disruption in the flow of trial and enable
14 the Court to make determinations about the admissibility of evidence out of the hearing of the jury
15 and before the inadmissible evidence can taint jury perceptions. Hyatt v. Sierra Boat Company
16 (1978) 79 Cal.App.3d 325, 337. Code of Civil Procedure § 128(a) authorizes any Court “(3) [t]o
17 provide for the orderly conduct of proceedings before it, or its officers” and “(8) [t]o amend and
18 control its process and orders so as to make them conform to law and justice.”

19
20 **III. THE EVIDENCE IS IRRELEVANT,**
21 **WOULD CAUSE AN UNDUE CONSUMPTION OF TIME**
22 **AND CONFUSE THE JURY**

23 “No evidence is admissible except relevant evidence.” Evidence Code § 350. Relevant
24 evidence is evidence “having any tendency in reason to prove or disprove any disputed fact that is of
25 consequence to the determination of the action. Evidence Code § 210. In addition, the Court may
26 exclude evidence, otherwise relevant, “if its probative value is substantially outweighed by the
27 probability that its admission will (a) necessitate undue consumption of time or (b) create substantial
28 danger of undue prejudice, of confusing the issues, or of misleading the jury.” Evidence Code § 352.

1 The present action presents as a discrimination, harassment and retaliation action under
2 Government Code § 12940. The triable issues in this case concern whether Defendant City of
3 Burbank discriminated and retaliated against Plaintiff on account of her pregnancy, harassed her on
4 account of her gender/race, and failed to take reasonable steps to prevent such harassment.
5 Evidence of the mere fact of lawsuits filed by Officer Dunn would be admissible in order to impeach
6 Dunn if, and only if, he testifies herein. However, Defendant might seek to admit evidence or trial
7 questions concerning, the substance, alleged merits or status of such suits. This evidence, however, is
8 not relevant to the issues herein, and any probative value it might have is substantially outweighed by
9 the probability that its admission will necessitate undue consumption of time and/or create
10 substantial danger of undue prejudice, of confusing the issues, or of misleading the jury. Such
11 evidence would cause an undue consumption of time because each side would present evidence
12 supporting their positions in the lawsuits. This in turn would confuse the issues and mislead the jury.

13 Therefore, Plaintiff respectfully submits that evidence should properly be excluded as
14 irrelevant.

15 IV. CONCLUSION

16 For all the reasons discussed above, Plaintiff respectfully requests that this Court enter an
17 order generally preventing Defendants, their counsel, and all witnesses from producing any
18 documents or other demonstrative evidence and from making any statement, reference, innuendo,
19 suggestion, argument or implication regarding the lawsuits against Defendant filed by Christopher
20 Dunn, other than the mere existence of such a suit if, and only if, that Officer Dunn testifies herein.

21
22 DATED: May 16, 2011

LAW OFFICES OF RHEUBAN & GRESEN

23
24 By: Steven M. Cischke
25 Steven M. Cischke
26 Attorneys for Plaintiff, Steve Karagiosian
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1 DECLARATION OF STEVEN M. CISCHKE

2 I, Steven M. Cischke, declare as follows:

3 1. I am an attorney at law, duly admitted to practice before all courts of the State of
4 California and am an attorney in the Law Offices of Rheuban & Gresen, attorneys of record herein
5 for Plaintiff, Steve Karagiosian. I have personal knowledge of the facts contained in this declaration
6 and if called as a witness, I could and would testify thereto.

7 2. Plaintiff seeks to exclude evidence of the lawsuits filed against Defendant by
8 Christopher Dunn, including, but not limited to their substance, alleged merits and status, but not the
9 mere existence of the lawsuits for impeachment purposes if, and only if, Dunn testifies.

10 3. Plaintiff would be unduly prejudiced by such testimony in that it would cause an undue
11 consumption of time because each side would present evidence supporting their positions in the
12 lawsuits, resulting in a series of trials within the trial. This in turn would confuse the issues and
13 mislead the jury which might group the suits together and judge the merits of Steve Karagiosian's
14 suit on the perceived merits of the Dunn suits.

15 4. On March 31, 2011, I emailed a letter to Lawrence A. Michaels, counsel for Defendant,
16 in an attempt to meet and confer regarding Plaintiff's motions *in limine*. A true and correct copy of
17 my letter to Mr. Michaels is attached hereto as Exhibit "A" and incorporated herein by reference.

18 I declare under the penalty of perjury under the laws of the State of California that the
19 foregoing is true and correct.

20 Executed this 16th day of May, 2011, in Encino, California.

21
22 
23 Steven M. Cischke

EXHIBIT A

LAW OFFICES OF RHEUBAN & GRESEN

Lawrence A. Michaels, Esq.

March 31, 2011

Page Two

Please give us a call to discuss these. Thank you.

Very truly yours,

LAW OFFICES OF RHEUBAN & GRESEN

/S/

Steven M. Cischke